

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Bell Telephone Company)	
)	Docket No. 00-0238
Petition for Waiver Pursuant to Condition (30))	
of the SBC/Ameritech Merger Order)	

DRAFT PROPOSED ORDER
OF AMERITECH ILLINOIS

PROCEDURAL HISTORY

On May 24, 2000, Illinois Bell Telephone Company (“Ameritech Illinois”) filed a Petition for waiver of Condition (30) of the Illinois Commerce Commission’s Order in the SBC/Ameritech Merger proceeding (Docket 98-0555).

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, this matter came up for hearing before duly authorized Administrative Law Judges of the Illinois Commerce Commission (“Commission”) at its offices in Chicago, Illinois.

The following parties intervened or entered appearances, by their respective counsel, in the instant proceedings: Ameritech Illinois; Staff of the Commission (“Staff”); the People of the State of Illinois (“AG”); AT&T Communications of Illinois, Inc. (“AT&T”); McLeodUSA Telecommunications Services, Inc. (“McLeodUSA”); MCI WorldCom Inc. (“MCI”); Sprint Communications Company, L.P. (“Sprint”); Association for Local Telecommunication Services (“ALTS”); MGC Communications, Inc. d.b.a. Mpower Communications, Inc. (“Mpower”); and NEXTLINK Illinois, Inc. (“Nextlink”).

Hearings were held in this matter on April 26, 2000, May 25, 2000, June 29, 2000, and August 21, 2001, when the record was marked “Heard and Taken”.

Ameritech Illinois presented the testimony of Salvatore Fioretti, the Director of Performance Measures for Ameritech Illinois. No other party submitted testimony. Ameritech Illinois filed a Draft Proposed Order on September 18, 2001.

The Hearing Examiners’ Proposed Order in this proceeding was issued on _____, 2001.

BACKGROUND

The SBC/Ameritech Merger Order contains certain requirements relative to performance measures, benchmarks and liquidated damages. Condition (30) required an SBC/Ameritech task force (“Task Force”) to develop a plan to implement OSS and facilities performance measurements, standards/benchmarks and remedies in Illinois based on 122 performance measurements SBC agreed to implement in Texas (“the Texas Plan”). The Task Force was to identify which Texas performance measures or standards/benchmarks were not technically feasible to implement in Illinois. Subsequent to the SBC/Ameritech task force review of the Texas Plan, Ameritech Illinois was to work with the Staff, competitive local exchange carriers (“CLECs”) and any other interested party in a collaborative process to establish the initial performance measures, standards/benchmarks and a remedy plan. For those performance measurements and standards/benchmarks which were not technically feasible to implement, Ameritech Illinois could seek a waiver from the Commission.

Following a collaborative process, Ameritech Illinois was required to file a report detailing the timeline for implementing each of the performance measures, and the reasons why any of those measures were deemed “infeasible” for implementation. (Merger Order, Condition 30 ¶4). In addition, the Texas Plan was based on a combination of “parity” and “benchmark” standards to assess SBC’s performance. In the SBC/Ameritech Merger Order, the Commission expressed a preference for the use of parity, rather than benchmark, standards. Where Ameritech Illinois proposes to use a benchmark standard, the Commission placed the burden of proof on Ameritech Illinois to demonstrate that no retail analog exists for that measure. (Merger Order, Condition 30 at ¶9). The Petition for Waiver which is the subject of this proceeding was filed in compliance with these requirements.

Subsequently, on February 5, 2001, Ameritech Illinois and other interested carriers filed a Joint Petition seeking Commission approval of the performance measures and standards/benchmarks which had been agreed to and requesting resolution of disputed issues which relate to the remedy plan associated with those measures and benchmarks (Docket 01-0120). Any remedy plan issues associated with the measures and standards/benchmarks themselves, including those which are the subject of the instant waiver request, will be addressed in Docket 01-0120.

POSITION OF AMERITECH ILLINOIS

In its direct testimony, Ameritech Illinois stated that all of the disputed issues between the parties had been resolved, except for the remedy plan, either through the collaborative process, or in discussions subsequent to the filing of the Petition, which

were reflected in Ameritech Illinois' direct testimony admitted into evidence. AT&T and Staff supported Ameritech Illinois' position in the hearing held on August 21, 2001, and no party presented objections at that time.

In its direct testimony, Ameritech Illinois stated that waivers were required for six Texas measures based on technical infeasibility. According to Ameritech Illinois, these are either measures for systems which Ameritech Illinois has not deployed; or are measures for products which Ameritech Illinois no longer offers. For example, SBC's Texas measures contain an average response time for a system called the Easy Access Sales Environment ("EASE") (SBC PM #3 EASE Average Response Time). EASE is a proprietary system deployed by SBC, which supports the ordering of standard residence and business telephone service. Ameritech Illinois has not deployed EASE and does not currently offer a system like EASE, which provides direct access to ordering. Therefore, Ameritech Illinois stated that it is infeasible to implement SBC PM #3, "EASE Average Response Time".

The five remaining measures that cannot be implemented because they are not technically feasible relate to interim number portability ("INP"), which SBC offers in some areas. These five measures are as follows:

PM #87	Percentage Installation Completed Within "X" (3, 7, 10) Days -- INP
PM #88	Average INP Installation Interval
PM #89	Percentage INP Only I-Reports Within 30 Days
PM #90	Percent Missed Due Dates (INP Only)
PM #116	Percentage of Missed Mechanized INP Conversions

In Illinois, although INP was utilized prior to the widespread availability of LNP, it was discontinued as a product offering in Ameritech Illinois' territory effective June 13, 1999. Thus, Ameritech Illinois stated, there is no INP performance to measure.

Ameritech Illinois' direct testimony further explained that waivers are required to allow for the use of benchmark, instead of parity, standards for certain wholesale functions. Ameritech Illinois explained that a parity standard applies when there is a retail analog for the wholesale function being measured. That is, Ameritech Illinois' wholesale performance is compared to its own retail operations or the service it provides to an affiliate. Benchmarks apply where there is no reasonably available, agreed-upon retail analog for the wholesale function. In these instances, an objective measure is established for completion of the operation in terms of seconds, hours, or other appropriate measure of timely performance; and Ameritech Illinois' wholesale performance is compared to those objective measures. Of the 122 Texas measures, 62 were based on benchmarks.

Ameritech Illinois stated that the parties and Staff had reached agreement on the use of parity and benchmark measures. The parties to the collaborative agreed that 40 of the 62 Texas benchmark measures and parts of two others could be based on benchmarks. The parties agreed to revisit five of these 42 benchmark measures in future collaborative workshops, to determine whether a retail analog had become available. In addition, with respect to two of these measures, Ameritech Illinois and the CLECs agreed to change the Texas benchmark to impose a more rigorous performance standard on Ameritech Illinois. For 19 of the remaining benchmark measures, the parties developed and agreed upon a retail analog in order to make a parity approach possible.

In addition, Ameritech Illinois stated that new disaggregations and associated benchmark standards (for PMs #5 and 94) had been agreed to for three measures involving Firm Order Confirmations ("FOCs") following the filing of its petition:

- ?? PM #5 -- Percent Firm Order Confirmations Returned Within “X” Hours for Resale and Unbundled Network Elements.
- ?? PM #6 -- Average Time to Return Firm Order Confirmations for Resale and Unbundled Network Elements.
- ?? PM #94 -- Percent Firm Order Confirmations Returned Within “X” Hours for Local Number Portability.

A separate benchmark was not established for PM#6, because it is a diagnostic measure of the same performance which is assessed directly in PM#5, and is not a standalone performance measure.

The FOC is a status notice which Ameritech Illinois provides to CLECs as part of the ordering process in the wholesale environment. Ameritech Illinois’ wholesale order interface (“EDI” for electronic orders) and wholesale service representatives (manual orders) check CLEC orders for format and content. CLEC orders which are improperly formatted, or which do not contain necessary data, are returned to the CLEC with a rejection notice. Orders that are correct and accurate are confirmed. The purpose of the FOC measures is to assess the amount of time it takes Ameritech Illinois to notify the CLEC that an order has been accepted as accurate and complete. According to Mr. Fioretti, the FOC is, by its nature, unique to the carrier-to-carrier relationship that exists in the wholesale environment. Mr. Fioretti further explained that the Texas performance measures contain benchmark standards for FOCs.

As stated by Ameritech Illinois, the agreed-upon benchmarks for FOCs are based on the Texas performance measures, with further modifications. As the result of negotiations between the parties, Ameritech Illinois modified its FOC measures to establish two separate categories for electronic orders (i.e., those that flow through and

those that drop for manual intervention), and different benchmarks were established for each category, as appropriate. Ameritech Illinois noted in Mr. Fioretti's testimony that Bell Atlantic had taken a similar approach.

COMMISSION ANALYSIS AND CONCLUSION

The Commission is of the opinion that the waivers requested by Ameritech Illinois are reasonable and should be approved. The fact that no party has opposed waivers in the circumstances described by Ameritech Illinois provides further support for our conclusion. The Commission commends the parties for working together cooperatively to resolve the contested issues. Any issues regarding the benchmarks themselves and/or performance remedies will be addressed in Docket 01-0120.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein, and being fully advised in the premises thereof, is of the opinion and finds that:

- (1) Illinois Bell Telephone Company ("Ameritech Illinois") is an Illinois corporation engaged in the business of providing telecommunications services to the public in the State of Illinois and, as such, is a telecommunications carrier within the meaning of Section 13-202 of the Illinois Public Utilities Act;
- (2) the Commission has jurisdiction over Ameritech Illinois and the subject matter of this proceeding;
- (3) the recital of facts and law and the conclusions articulated in the prefatory portion of this Order are supported by evidence of record, and are hereby adopted as findings of fact and conclusions of law for the purposes of this Order;
- (4) the waivers requested by Ameritech Illinois are reasonable.

IT IS THEREFORE ORDERED that the Petition for Waiver filed by Illinois Bell Telephone Company is granted.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this ____ day of _____, 2001.

(SIGNED) RICHARD L. MATHIAS

Chairman

(SEAL)